

Attorney's Docket No.: 17094-002001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant : Ellen M. Heath et al.

Art Unit : 1623

Serial No. : 09/974,798

Examiner : Devesh Khare, Ph.D.

MAY 18 2004

Filed : October 12, 2001

Title : COMPOSITIONS AND METHODS FOR USING A SOLID SUPPORT TO
PURIFY RNA

MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

OFFICIAL

PETITION TO WITHDRAW NOTICE OF ABANDONMENT

Under 37 CFR § 1.181, applicant hereby petitions to have the United States Patent and Trademark Office withdraw the Notice of Abandonment mailed March 18, 2004 (copy enclosed). The application was abandoned under 37 CFR § 1.135 for failure to respond to the Office Action mailed September 9, 2003.

The undersigned applicant's attorney of record first became aware of the abandonment on March 26, 2004, *i.e.*, upon receipt of the Notice of Abandonment. Applicant submits that this petition to withdraw the Notice is being promptly filed as required by 37 CFR § 1.8(b)(1).

The following documents are submitted under MPEP § 711.03(c) as proof that the Office Action was not received by Applicant or Applicant's representative.

Attached is a Declaration of Gay Oehlke ("Oehlke Declaration") stating that the Office Action dated September 9, 2003 was not received by Schwegman, Lundberg, Woessner & Kluth, P.A. ("Schwegman firm"), who was Applicant's representative in September 2003. Attached to the Oehlke Declaration are copies of the Schwegman firm's docketing records. The Oehlke Declaration indicates that if the Schwegman firm had received an Office Action, the Office Action would have been entered into the records subsequent to the receipt of the Restriction

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

May 18, 2004

Date of Transmission

Signature

Jill Hugo

Typed or Printed Name of Person Signing Certificate

Applicant : Ellen M. Heath et al.
Serial No. : 09/974,798
Filed : October 12, 2001
Page : 2 of 2

Attorney's Docket No.: 17094-002001


Requirement. Also, if an Office Action had been received, the "status check" reminders would have been removed from the docketing records. As evidenced by the docketing records attached to the Oehlke Declaration, the "status check" entry was not removed from the docket.

It should be noted that the present matter was transferred to the firm of Fish & Richardson P.C., P.A. on January 27, 2004. A copy of the Revocation and New Power of Attorney is attached herewith. Applicant requests that the holding of abandonment be withdrawn and that the Office Action be re-mailed. Applicant request that the Office Action be mailed to Applicant's current representative, Fish & Richardson P.C., P.A.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 18 May 2004


Ann S. Viksnins
Reg. No. 37,748

Fish & Richardson P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

60216011.doc

ASV



UNITED STATES PATENT AND TRADEMARK OFFICE

17094-002001

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,798	10/12/2001	Ellen M. Heath	GSIM-01P-0014	7769

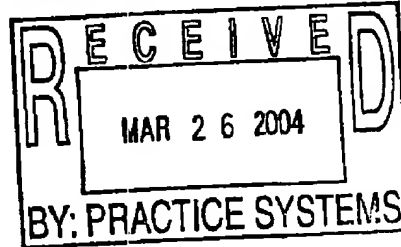
7590

03/18/2004

Schwegman, Lundberg, Woessner & Kluth, P.A.

P O Box 2938

Minneapolis, MN 55402



EXAMINER

KHARE, DEVESH

ART UNIT	PAPER NUMBER
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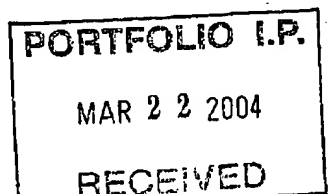
1623

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Docketed By Practice systems
Action Code: <u>Aband - Unintentional</u>
Base Date: <u>3-18-04</u>
Due Date: <u>5-18-04</u>
Deadline: <u>5-18-04</u>
Initials: <u>[Signature]</u>
Record: _____

Docketed By Billing Secretary
Due Date: <u>5-18-04</u>
Deadline: <u>5-18-04</u>
Initials: <u>[Signature]</u>



Notice of Abandonment

Application No.

09/974,798

Examiner

Devesh Khare

Applicant(s)

HEATH ET AL.

Art Unit

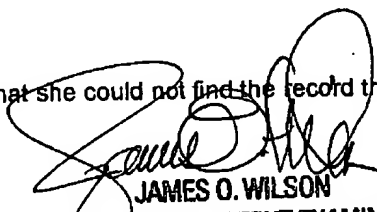
1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 09 September 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

In a telephone call on 03/15/04, the applicants representative indicated that she could not find the record that any papers have been filed.


JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 9

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Serial No. : 09/974,798 Examiner : Devesh Khare, Ph.D.
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Title : COMPOSITIONS AND METHODS FOR USING A SOLID SUPPORT TO
PURIFY RNA

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF GAY OEHLKE

I, Gay Oehlke, hereby declare as follows:

- (1) I, Gay Oehlke, am a Docketing Paralegal at the law firm of Schwegman, Lundberg, Woessner & Kluth, P.A. ("the Schwegman firm").
- (2) I have searched the docketing records to ascertain whether the Schwegman firm received an Office Action allegedly mailed by the United States Patent and Trademark Office on September 9, 2003.
- (3) The Schwegman firm's electronic docket records reflect that a response to a Restriction Requirement Action was filed by fax on June 16, 2003. At that time a follow-up Status Check was created for April 2004 in the firm electronic docket system (Attachment #1). Additionally, the Schwegman firm's web-based file management system identifies the filing of the response to the Restriction Requirement but no further incoming documents are indicated (Attachment #2). Copies of docket records are attached.
- (4) It is the Schwegman firm's practice that when an office action is received, any outstanding Status Check reminders are marked as complete. For example, when an office action is received, this Status Check would be removed once the action had been docketed. This did not happen in this instance, as the Status Check entry was not removed.
- (5) This file was transferred to Fish & Richardson in January 2004 at which time the outstanding Status Check reminder was removed from the Schwegman firm's records.
- (6) I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

Applicant : Ellen M. Heath et al.
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Filed : October 12, 2001
Page : 2 of 2

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United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

May 18, 2004
Date

Gay D. Oehlke
Gay Oehlke
Docketing Paralegal
Schwegman, Lundberg, Woessner & Kluth, P.A.

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Matter Overview

#2 FIP

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Title: COMPOSITIONS AND METHODS FOR USING A SOLID SUPPORT TO PURIFY RNA **File#:** 10
Type: Utility - ORG **Country:** Un
Client: Gentra Systems, Inc. **Client File#:**
Matter ID: 61468 **Actual Pub. Date:**
Status: Transferred **Matter Entity:** N/
Date Filed: Oct 12, 2001 **Size:**
Serial#: 09/974,798 **Issue Date:**
Patent#:








Created by: Jane Sagers, Dec 10, 2002 Hosted By: Schwegman Lundberg Woessner & Kluth

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<input checked="" type="checkbox"/> Matter Management						Edit	-- Add --
<input type="checkbox"/> Information Disclosure Statement		Open: Tasks	Date Done : 01/28/2004	Postcard Expected : 03/10/2004		Edit	-- Add --
* <input type="checkbox"/> Notice of Acceptance of Power of Attorney		Completed	Date mailed : 09/28/2003	Date received : 10/20/2003		Edit	-- Add --
<input type="checkbox"/> Notice Regarding Change of Power of Attorney		Completed	Date mailed : 09/28/2003	Date received : 10/20/2003		Edit	-- Add --
<input type="checkbox"/> Response to Restriction Requirement	Response to Restriction Requirement	Completed	Date Done : 06/16/2003	Postcard Received : 06/16/2003		Edit	-- Add --
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<input type="checkbox"/> Notice of Publication Received		Completed	Date Mailed : 04/17/2003	Date Received : 04/28/2003		Edit	-- Add --
<input type="checkbox"/> Disclosure Received		Completed	Date Received : 12/10/2002			Edit	-- Add --
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Matter Overview

<input type="checkbox"/> <u>Updated</u> <u>Filing Receipt</u> <u>Received</u>		Completed	Date Mailed : 11/28/2001	Date Received : 11/28/2001		Edit	-- Add --
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<input type="checkbox"/> <u>Application</u> <u>Filed</u>		Completed	Date Filed : 10/12/2001	Postcard Received : 10/21/2001		Edit	-- Add --
<input type="checkbox"/> <u>Unsigned</u> <u>Declaration</u> <u>and Power of</u> <u>Attorney</u>		Completed	Date Filed : 10/12/2001			Edit	-- Add --
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PURIFY RNA

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REVOCATION AND NEW POWER OF ATTORNEY

Under 37 CFR §3.73(b) GENTRA SYSTEMS, INC., a corporation, certifies that it is the assignee of 100% of the right, title and interest in the patent application identified above by virtue of:

An assignment from the inventors of the patent application identified above (copy enclosed). This Assignment is being filed concurrently with the Assignment Branch of the U.S. Patent and Trademark Office.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned, whose title is supplied below, is empowered to act on behalf of the assignee.

The undersigned, acting on behalf of the assignee, hereby revokes all powers of attorney previously granted in the application and appoints:

Ann S. Viksnins, Reg. No. 37,748; Mark S. Ellinger, Ph.D., Reg. No. 34,812;
Dorothy P. Whelan, Reg. No. 33,814; Reg. No. 28,488; Richard J. Anderson,
Reg. No. 36,732; H. Sanders Gwin, Jr., Reg. No. 33,242; Stephen R. Schaefer,
Reg. No. 37,927; Ronald C. Lundquist, Ph.D., Reg. No. 37,875; John A.

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

Date of Transmission

Signature

Jolene Alger

Typed or Printed Name of Person Signing Certificate

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Page : 2 of 2

Attorney's Docket No.: 17094-002001

Reg. No. 37,927; Ronald C. Lundquist, Ph.D., Reg. No. 37,875; John A. Dragseth, Reg. No. 42,497; J. Patrick Finn III, Ph.D., Reg. No. 44,109; M. Angela Parsons, Ph.D., Reg. No. 44,282; Monica McCormick Graham, Ph.D., Reg. No. 42,600; J. Richard Soderberg, Reg. No. 43,352; Chad A. Hanson, Ph.D., Reg. No. 44,737; Greg H. Gardella, Reg. No. 46,045; Teresa A. Lavoie, Ph.D., Reg. No. 42,782; Elizabeth N. Kaytor, Ph.D., Reg. No. 53,103, all of FISH & RICHARDSON P.C., P.A., 60 South Sixth Street, Suite 3300, Minneapolis, MN 55402.

with full power of substitution and revocation, to prosecute the application and to transact all business in the United States Patent and Trademark Office connected therewith.

All correspondence regarding the application should be sent to:

PTO Customer Number: 26191

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

Date: _____

4/7/04

By: _____

Title: _____

John M. Duman
President & CEO

Fish & Richardson P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

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